

REMARKS

Claims 1-8, 10, 14-29, and 32-37 were previously pending. Applicant amends claims 1 and 28 as shown above. Applicant also adds claim 38. Accordingly, claims 1-8, 10, 14-29, and 32-38 are now pending and under consideration. No new matter has been added.

Claim 1 is amended to recite the first and second anchor members include a plurality of protrusions located on a respective surface, where a number of the protrusions on each anchor are aligned along an axis of the first or second anchor member such that the protrusions assist in retaining the anchor members on deployment.

Claim 28 is amended to further recite a plurality of protrusions located on a respective surface, where a number of protrusions on each anchor means are aligned along a respective axis of the anchor means the protrusions assist in retaining the anchor ~~members~~ means on deployment.

Claim 38 is added to recite an anchor member as previously claimed where at least the first anchor member and the second anchor member each are expandable from a first state to a second state where the second state is of a larger size than the first state, and where the first and second anchor members include a number of uniformly spaced protrusions located on a respective surface of the first or second anchor member, where the protrusions assist in retaining the anchor members on deployment.

Support for these amendments can be found in Fig. 2H of the specification as originally filed.

Rejections under 35 U.S.C. §102(e)

Claims 1-8, 10, 14-18, 20-29, 32-33, and 35 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Ryan et al. (U.S. Publication No.2003/0191495 A1).

Applicant disagrees with the previous rejection. Ryan does not teach or suggest that an implant having anchor members that include a plurality of protrusions located on a surface, where the protrusions assist in retaining the anchor members on deployment.

In paragraph [0042], Ryan discloses “. . . anchor members having stiff centers and flexible edges, and blood contacting surfaces having controlled porosity or surface texture to

promote fast and thorough endothelialization, while minimizing thrombosis. In addition, the tissue contacting surface of the anchors can be designed to provide added stability by, e.g., being roughened.”

Clearly, Ryan is teaching roughening a surface texture to avoid creation of thrombosis. In contrast, providing protrusions as applicant recites in claims 1 and 28 (and shows in Fig. 2H), would create a risk of thrombosis which Ryan cautions against. As noted before, a protrusion is something that protrudes from the surface regardless where the surface is smooth or rough. Again, Ryan simply does not teach a device having protrusions from the surface (where the surface may be smooth or roughened).

In addition, claims 1 and 28 now require: a plurality of protrusions located on a respective surface, where a number of the protrusions on each anchor are aligned along an axis of the first or second anchor member such that the protrusions assist in retaining the anchor members on deployment; or a plurality of protrusions located on a respective surface, where a number of protrusions on each anchor means are aligned along a respective axis of the anchor means the protrusions assist in retaining the anchor means on deployment.

In addition, claim 38 requires the first and second anchor members include a number of uniformly spaced protrusions located on a respective surface of the first or second anchor member.

Ryan simply fails to teach alignment of any protrusions on an anchor member or uniform spacing of protrusions on an anchor member.

In view of the above, applicant believes that Ryan fails to teach or suggest the requirements of claims 1, 28, or 38 and any claim ultimately dependent therefrom.

Rejections under 35 U.S.C. §103(a)

Claims 19, 34, 36, and 37 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Ryan et al. (2003/0191495 A1) in view of Ory et al. (U.S. Patent No. 6,692,506) or Thill et al. (U.S. Publication No. 2003/0028213 A1).

Applicant disagrees that the Office Action presents a proper prima facie case of obviousness. As noted above, since Ryan fails to teach or suggest the requirements of claims

from which 19, 34, 36, and 37 ultimately depend. The addition of either Ory or Thill does nothing to remedy this deficiency.

Furthermore, as noted above Ryan teaches roughening a surface rather than placing any substance on a surface. Ryan also explicitly teaches providing a surface texture that minimizes a risk of thrombosis. Applicant believes such a teaching directs one away from purposefully placing a protrusion on a surface that comprise bio-active substances.

As discussed previously creating protrusions of bio-active substances allows the ability to control rates or release or dosage via the size of the protrusion. This simply cannot be performed via roughening the surface as taught by Ryan. Applicant believes that any modification as proposed in the Office Action results from impermissible hindsight reconstruction based upon applicant's own disclosure.

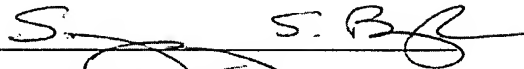
In view of the above applicant believes that the Office Action fails to establish a proper prima facie case of obviousness and requests withdrawal of this rejection.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to Deposit Account No. 50-3973 referencing Attorney Docket No. LAUFNZ00200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,


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